

Remarks

The Examiner has withdrawn from consideration claims 2-4, 6-10 and 13-18 in view of a restriction order. Applicants accept the Examiners position and have canceled claims 2-4, 6-10 and 13-18 without prejudice. Applicants have further canceled without prejudice claim 11.

The Examiner has rejected the specification for informalities based on the restriction requirement on claims 2-4, 6-10 and 13-18. In view of the Examiner's position Applicants cancel drawings Figures 5-15 without prejudice. Accordingly the Examiner's rejection should be withdrawn.

The Examiner has further rejected claim 12 for informalities. With regard to claim 12, Applicants have amended line 2 to be a property instead of a limit. The basis for this amendment is given in claim 12, line 3, "wherein a property" language is used. Applicants have also amended claim 12, line 5 by replacing the term "determine" with "determined." Accordingly the Examiner's rejection should be withdrawn.

Claims 1, 5, 11 and 12 are provisionally rejected under judicially created doctrine of obviousness-type double patenting over claims 1, 4-6, 11 and 13-15 of Applicants' U.S. Patent Application No. 10/271,885 (also published as U.S. 2004/0075448). Contemporaneously filed with this response is a Terminal Disclaimer in compliance with 37 C.F.R. 1.321(c) which overcomes a rejection on this ground. Therefore, the Terminal Disclaimer obviates the Examiner's rejection.

The Examiner has further rejected claims 1, 5, 11 and 12 under 35 U.S.C. 102(e) as being anticipated by Lvovich et al. (US 2004/0075448). In view of the Examiners position, Applicants supply a declaration under 37 CFR 1.132 to show conception and reduction to practice of the examples of the current application prior to October 16, 2002 (the day before the filing date of the Lvovich reference). Note that all dates have been redacted from the photocopies of the laboratory notebook pages. However, Applicants stress that those dates were before October, 16, 2002 as expressed in the declaration.

Applicants assert that document (B) discloses in the Summary the current invention of monitoring and determining by temperature dependence of individually monitored fluid properties by a first fluid-temperature threshold to a

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second fluid-temperature at a rate greater than a threshold rate. Applicants' claimed invention discloses a method to temperature compensate data of a fluid while in use that comprises: collecting data when fluid temperature changes from a first threshold temperature to at least a second threshold temperature at least at a threshold rate; and determining the temperature dependence of the collected data. Therefore Applicants' claimed invention is disclosed in Document (B). Thus Applicants are swearing behind the Lvovich reference.

Applicants believe that the amended claims no longer contain informalities. Further, for the reason set forth above, Applicants believe the declaration under 37 CFR 1.132 and the Terminal Disclaimer filed in compliance with 37 C.F.R. 1.321(c) make Applicants' claimed invention novel and not obvious over the reference cited by the Examiner. Applicants respectfully request the Examiner to remove the rejections under 35 U.S.C. 102(e) and 35 U.S.C. 103(a) rejection and find all claims allowable.

The Commissioner is authorized to charge the Terminal Disclaimer Fee of \$110.00, a one-month Petition & Fee for Extension of Time of \$120.00, and any additional fees to The Lubrizol Corporation Deposit Account No. 12-2275. A duplicate copy of this document is submitted for such purposes.

Respectfully submitted,
THE LUBRIZOL CORPORATION



Teresan W. Gilbert
Registration No. 31,360

29400 Lakeland Blvd.
Wickliffe, Ohio 44092-2298
Telephone: 440-347-5072
Facsimile: 440-347-1110
E-mail: tgi@lubrizol.com